

DEVELOPMENT MANAGEMENT COMMITTEE 15th JULY 2024

Case No: 23/02358/FUL

Proposal: USE OF LAND FOR GYPSY AND TRAVELLER
RESIDENTIAL USE CREATING 7 PITCHES
COMPRISING THE SITING OF 1 MOBILE HOME, 1
TOURING CARAVAN, A DAY ROOM AND
ASSOCIATED PARKING AND A NEW CHILDREN'S
PLAY AREA.

Location: LEGACY PARK, CHATTERIS ROAD, SOMERSHAM

Applicant: MR FREDERICK ADAMS

Grid Ref: 538044 279276

Date of Registration: 6th December 2023

Parish: SOMERSHAM

RECOMMENDATION - APPROVE

This application is referred to the Development Management Committee (DMC) in accordance with the Scheme of Delegation as the Officer recommendation of approval is contrary to that of the Parish Council.

1. DESCRIPTION OF SITE AND APPLICATION

Site and Surroundings

- 1.1 The application site is located in the countryside to the north-east of Somersham approximately 2.9km travelling distance from the centre of the village.
- 1.2 The site is primarily in Flood Zone 3a with small sections of Flood Zone 2 and is therefore considered to be at a high risk of flooding from river sources. The SFRA 2017 also shows the north-western corner of the site is also shown as being susceptible to surface water flooding and the western portion of the site at high risk of groundwater flooding.
- 1.3 The site has come forward in 3 elements.
- 1.4 The eastern element of the site benefits from permanent planning permission for 4 pitches.

1.5 The central element of the site now benefits from a 5 year temporary planning permission for 4 pitches, allowed at appeal 30th May 2024.

1.6 This application relates to the western element of the site.

Proposal

1.7 This application seeks approval for change of use of land for gypsy and traveller residential use creating 7 pitches comprising the siting of 1 mobile home, 1 touring caravan, a day room and associated parking and a new children's play area.

1.8 2 of the pitches are not allocated to specific people but would be available for Gypsies and Travellers in need of temporary transit accommodation.

1.9 This application has been accompanied by the following:

- Design and Access Statement
- Additional statement
- Personal Circumstances Statement
- Flood Risk Assessment
- Plans

1.10 Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

2. NATIONAL GUIDANCE

2.1 The National Planning Policy Framework (NPPF 2023) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2023 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'

2.2 The NPPF 2023 sets out the Government's planning policies for (amongst other things):

- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- achieving well-designed, beautiful and safe places;
- conserving and enhancing the natural, built and historic environment

2.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

2.4 For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)

- LP1: Amount of Development
- LP2: Strategy for Development
- LP3: Green Infrastructure
- LP4: Contributing to Infrastructure Delivery
- LP5: Flood Risk
- LP6: Waste Water Management
- LP8: Key Service Centres
- LP10: The Countryside
- LP11: Design Context
- LP12: Design Implementation
- LP14: Amenity
- LP15: Surface Water
- LP16: Sustainable Travel
- LP17: Parking Provision
- LP27: Gypsies, Travellers and Travelling Showpeople
- LP30: Biodiversity and Geodiversity
- LP31: Trees, Woodland, Hedges and Hedgerows

3.2 Supplementary Planning Documents (SPD) and Guidance:

- Huntingdonshire Design Guide Supplementary Planning Document (2017)
- Developer Contributions SPD (2011)
- Huntingdonshire Landscape and Townscape SPD (2022)
- Huntingdonshire Strategic Flood Risk Assessment (2017)
- Cambridgeshire Flood and Water SPD (2017)
- LDF Developer Contributions SPD (2011)
- Annual Monitoring Review regarding housing land supply (2020)
- Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

Local policies are viewable at <https://www.huntingdonshire.gov.uk>

3.3 The National Design Guide (2021):

- C1 - Understand and relate well to the site, its local and wider context
- I1 - Respond to existing local character and identity
- I2 - Well-designed, high quality and attractive
- B2 - Appropriate building types and forms
- M3 - Well-considered parking, servicing and utilities infrastructure for all users
- N3 - Support rich and varied biodiversity
- H1 - Healthy, comfortable and safe internal and external environment
- H2 - Well-related to external amenity and public spaces
- H3 - Attention to detail: storage, waste, servicing and utilities.

For full details visit the government website

4. PLANNING HISTORY

- 4.1 0801685FUL: Temporary change of use of land from agriculture to caravan/mobile home travellers site (two pitches) including new vehicular access, associated roadway and hardstanding. (Refused)
- 4.2 0803522FUL: Permanent change of use of agricultural land to a travellers site with 6 pitches including new vehicular access roadway and hardstanding (Refused)
- 4.3 0803523FUL: Permanent change of use of agricultural land to a travellers site for 2 pitches including new vehicular access, associated roadway and hardstanding (Refused, Appeal Allowed)
- 4.4 0900550FUL: Permanent change of use of land from agriculture to caravan/mobile home travellers site (6 pitches) including vehicular access roadway and hardstanding (Refused, Appeal Dismissed)
- 4.5 1401501FUL: Change of use of land to provide two additional pitches for gypsy/travellers (Approved)
- 4.6 18/00840/FUL: Change of use of land to provide four additional gypsy/traveller pitches with day rooms and gym room/ store (Refused, Appeal Allowed)
- 4.7 22/02501/FUL: Change of use of agricultural land to caravan holiday park comprising 18 pitches and toilet block (retrospective) (Pending consideration)

5. CONSULTATIONS

- 5.1 Somersham Parish Council – Recommend refusal.
 - Over development of the site
 - There is insufficient infrastructure on the proposed site to support a holiday park for amenities, such as drainage.
 - The Council are concerned approval of this application will increase the negative effects relating to biodiversity including the disturbance of protected species.
 - There is already an established, registered holiday Caravan and Motorhome site within the village.
 - Finally, as per the experience of previous applications for the site, the Council are concerned approval of this application provides little certainty any conditions set will be adhered to.
- 5.2 Cambridgeshire County Council's Highway Authority – No objection subject to conditions regarding access width, access

specification, on-site parking laid out, radius kerbs and access drainage.

I note that the access is in place and has been in place and agreed with the Highway Authority through various applications as a shared use. However, upon visiting the site I note that the access is not constructed to Cambridgeshire County Council's specification.

- 5.3 Huntingdonshire District Council's Environmental Protection Officer – No objection subject to a condition regarding free flow of air.

This application site is within 250m of an Environment Agency landfill buffer so could potentially be exposed to hazards landfill gas. If minded to approve this application, I recommend you either request the applicant carry out a site investigation to quantify and assess the risk of hazardous ground gases or ensure future residents do not block the air gap between the base of the mobile home and the ground floor slab so that there will be a free flow of air beneath. The Day Room will also need adequate ventilation beneath the floor slab.

6. REPRESENTATIONS

- 6.1 1 letter of support from a neighbouring property.

7. ASSESSMENT

- 7.1 When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.
- 7.2 As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within the NPPF (2023). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".
- 7.3 In Huntingdonshire the Development Plan (relevant to this applications) consists of:
- Huntingdonshire's Local Plan to 2036 (2019)
 - Cambridgeshire & Peterborough Minerals and Waste Local Plan (2021)
- 7.4 The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the

circumstances which bears on the use or development of the land: *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor* [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.

- 7.5 The main issues to consider in the determination of this application are:
- The Principle of Development (Including Impact upon the Character and Appearance of the Area, Amenity, Flood Risk and Highway Safety, Access, and Parking Provision)
 - Biodiversity
 - Developer Contributions
 - Other matters

The Principle of Development (Including Impact upon the Character and Appearance of the Area, Amenity, Flood Risk and Highway Safety, Access, and Parking Provision)

- 7.6 The application site is located in the countryside and therefore must be assessed against Policy LP10 of the Local Plan which states that “Development in the countryside will be restricted to the limited and specific opportunities as provided for in other policies of this plan and that all development in the countryside must:
- a. seek to use land of lower agricultural value in preference to land of higher agricultural value:
 - i. avoiding the irreversible loss of the best and most versatile agricultural land (Grade 1 to 3a) where possible, and
 - ii. avoiding Grade 1 agricultural land unless there are exceptional circumstances where the benefits of the proposal significantly outweigh the loss of land;
 - b. recognise the intrinsic character and beauty of the countryside; and
 - c. not give rise to noise, odour, obtrusive light or other impacts that would adversely affect the use and enjoyment of the countryside by others.”
- 7.7 With regard to part a, the proposal would result in the loss of approximately 0.3ha of Grade 2 Agricultural Land. This loss would conflict with Policy LP10 to a degree. However, 0.3ha loss would not be significant in terms of the availability of best and most versatile land across the District and would not have a detrimental impact upon current food or crop production.
- 7.8 In terms of parts b and c, these matters are assessed in detail further below in ‘Principle of Development’ section of report against Policy LP27. Overall, subject to conditions, the proposal is considered to recognise the intrinsic character and beauty of the countryside and would not give rise to noise, odour, obtrusive light

or other impacts that would adversely affect the use and enjoyment of the countryside by others.

Gypsy and Traveller Status

- 7.9 A primary consideration is whether planning policies relating to gypsies and travellers are relevant in the consideration of this application.
- 7.10 The national Planning Policy for Traveller Sites (PPTS) document was updated December 2023 with an amended definition of Gypsies and Travellers in paragraph 1 within Annex 1:
1. *For the purposes of this planning policy “gypsies and travellers” means: Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*
- 7.11 Paragraph 2 within Annex 2 goes on to state:
2. *In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*
 - a) *whether they previously led a nomadic habit of life*
 - b) *the reasons for ceasing their nomadic habit of life*
 - c) *whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.*
- 7.12 The accompanying Personal Circumstance & Gypsy Status Statement submitted with the application describes the background of the families which make up the applicant group. The information includes details of their nomadic lifestyle, and it is noted that each pitch includes space for a touring caravan which meets with the stated intention to continue to travel in the future. The Personal Circumstance & Gypsy Status Statement also sets out the need, across all of the families that form the applicant group, for children to be in education, and the need regularly access to healthcare services and to ensure a family support network is available.
- 7.13 The test of the evidence is the balance of probabilities: that is, whether something is more likely than not. Having regard to the submitted Personal Circumstance & Gypsy Status Statement, it considered that the families who will be occupying the pitches fulfil the definition of gypsies and travellers.

- 7.14 When assessing the location of the site against the built-up areas definition and the tables on pages 53 to 55 of the Local Plan to 2036, the site lies outside the built-up area of Somersham, which is a Key Service Centre, the site is therefore considered to be within the countryside.
- 7.15 Local Plan policy LP27 relates to Gypsies, Travellers and Travelling Showpeople and its purpose, as stated in paragraph 7.33 of the Local Plan, is to enable the appropriate provision of sites to meet the specific needs of such groups. It states that new traveller sites outside of the built-up area will be supported in sustainable locations where they respect the scale of the nearest settled community and will be very strictly limited in open countryside that is away from existing settlements.
- 7.16 The Council will therefore support a proposal which contributes to the delivery of Gypsy and Traveller pitches where it satisfies each of criteria a) to j) of the policy.

Need for Gypsy and Traveller sites

- 7.17 The local Plan to 2036 does not specifically allocate any sites for gypsies, travellers or showpeople.
- 7.18 As stated above, the site is not located within the built-up area of Somersham, and therefore in planning policy terms it is in the open countryside where planning policies for the countryside apply. The Planning Policy for Traveller Sites (PPTS) published in August 2015 is not opposed in principle to traveller sites being located in the countryside, so long as they are not within Green Belt land. Huntingdonshire does not have any areas of Green Belt. Stipulations in the PPTS include: -
* Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan; -
* Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure’.
- 7.19 Paragraph 4 of the NPPF (2021) states that it should be read in conjunction with the Government's Planning Policy for Traveller Sites and that decisions on traveller sites should also have regard to the Framework so far as relevant. The Planning Policy for Traveller Sites (PPTS) sets out the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. The PPTS includes policies on plan-making and on decision-taking. Paragraph 23 of the PPTS states that local planning authorities should determine applications in accordance with the presumption

in favour of sustainable development and the policies in the NPPF and PPTS.

- 7.20 Paragraph 24 of the PPTS states that when considering planning applications local planning authorities (LPAs) should consider the following:
- a) The existing level of local provision and need for sites,
 - b) The availability (or lack) of alternative accommodation for the applicants,
 - c) Other personal circumstances of the applicant,
 - d) The locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites, and
 - e) That LPAs should determine applications for sites from any travellers and not just those with local connections.
- 7.21 Paragraph 26 of the PPTS requires weight to be attached to factors such as:
- a) Effective reuse of brownfield land, untidy or derelict land;
 - b) Sites which positively enhance the environment for example by soft planting;
 - c) Promoting opportunities for healthy lifestyles, such as provision of adequate landscaping and play areas for children
 - d) Not over enclosing or isolating a site with hard landscaping, walls and fences.
- 7.22 The criteria and means by which new traveller development is to be controlled is set out in further policies within the PPTS and in local policies which closely reflect the NPPF policies, and these are considered below.
- 7.23 Under the PPTS Policy B, planning authorities should, amongst other things, set pitch targets for gypsies and travellers which address likely needs in their area, working collaboratively with neighbouring local planning authorities. In producing their local plans, planning authorities should, amongst other things:
- a) identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets;
 - b) identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15:
 - c) consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites;
 - d) relate the number of pitches to the circumstances of the specific size or location of the site and the surrounding population's size and density;
 - e) protect local amenity and environment.

- 7.24 Paragraph 11 of The PPTS (2015) sets out that criteria should be set to guide land supply allocations where there is identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community.
- 7.25 Paragraph 13 of the PPTS (2015) requires LPAs to ensure that traveller sites are sustainable economically, socially and environmentally and includes the criteria that should be used in the setting of LPA policies.
- 7.26 Policy H, paragraph 22 of the PPTS (2015) notes that planning law requires applications for planning permission to be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.
- 7.27 In line with PPTS Paragraph 24, following factors are considered:
- PPTS Paragraph 24 (a) The existing level of provision and need for traveller pitches:*
- 7.28 For the purposes of plan preparation, paragraph 9 of PPTS advises local planning authorities that they should set pitch targets which address the likely permanent and transit site accommodation needs of Travellers in their area, working collaboratively with neighbouring local planning authorities. Policy H, para 27 of the PPTS, states that the absence of a 5-year supply of deliverable sites should be a significant material consideration in any subsequent planning application when considering applications for the grant of temporary planning permission.
- 7.29 Policy LP27 of the Huntingdonshire Local Plan to 2036 refers to The Cambridgeshire, Kings Lynn & West Norfolk, Peterborough and West Suffolk Gypsy and Traveller Accommodation Assessment 2016 (GTAA 2016), which identified a need within Huntingdonshire for an additional 9 permanent residential Gypsy and Traveller pitches between 2016 and 2036, of which 5 were needed between 2016 and 2021.
- 7.30 An updated GTAA is currently underway and will be published shortly to inform the Local Plan Review.
- 7.31 It is acknowledged in that the 2016 GTAA is a dated source of evidence and the numbers in it should not be treated in any way as a ceiling. Therefore, in the absence of an updated GTAA proposals for new pitches should be made in the context of the existing data available and based on policy LP27. Until the updated GTAA is produced, the Council is unable to provide any evidence on the extent of the shortfall, whilst noting that it is likely

that there will be additional need for those who were excluded from the GTAA process based on the previous PPTS definition.

PPTS Paragraph 24 (b) the availability (or lack) of alternative accommodation for the applicants:

- 7.32 Based on the status of the GTAA 2016 and absence of allocated sites for Gypsies and Travellers within the Local Plan together with the amount of retrospective planning applications granted permission and pending consideration since the publication of the GTAA 2016, it is considered that there is a shortage of Gypsy and Traveller sites in Huntingdonshire, and therefore there is still an unmet need within the District. In this instance the accompanying Personal Circumstance & Gypsy Status document describes why the occupiers of the pitches have, prior to settling on the site, struggled to find a suitable permanent base and have largely led a roadside existence, and in some cases have previously on a temporary basis stayed at Legacy Park.
- 7.33 It is therefore considered that there is a lack of alternative accommodation for the applicants.

PPTS Paragraph 24 (c) other personal circumstances of the applicant:

- 7.34 The accompanying Personal Circumstance & Gypsy Status Statement submitted with the application describes the personal circumstances of the occupiers. This includes one couple who are expecting a child, a man with a visiting child who also provides care for elderly relatives who occupy the central element of the site, a family with 3 young children and another family with 1 young adult and 1 child. It clearly sets out the need for children having a base for education etc and how the occupiers provide a support network for each other.
- 7.35 Article 1 of the First Protocol sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life and his home. Refusing would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.
- 7.36 The future occupants of the proposed pitches are an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. The proposal would meet the needs of those persons with a relevant protected characteristic, by reason of race, and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty is applicable.

PPTS Paragraph 24 (d) that the locally specific criteria used to guide the allocation of sites in plans, or which form the policy where there is no identified need for pitches, should be used to assess applications that may come forward on unallocated sites:

- 7.37 The criteria within policy LP27 is therefore relevant and is discussed within material considerations below.

PPTS Paragraph 24 (e) that they should determine applications for sites from any travellers and not just those with local connections:

- 7.38 In this instance, these are applicants who originate from the region and also applicants who have continuously travelled across the country before becoming aware of the site. The applicants appear to fulfil the definition of Gypsy and Travellers. Policy LP27 of Huntingdonshire's Local Plan to 2036 is therefore relevant and the application will be assessed with regard to any travellers not just those with local connections.

Sustainability in terms of Policy LP27 of Huntingdonshire's Local Plan to 2036

- 7.39 Policy LP27 of the Local Plan to 2036 sets out a range of criteria to be satisfied. These are set out below, and the scheme is subsequently assessed against the provisions of each of these criteria:

LP27.a) The location is within 1.5 miles of a primary school and 2 miles of a GP surgery:

- 7.40 The site is approximately 1.35 miles from Somersham Primary School geographically with 2 miles travelling distance. The site is approximately 1.5 miles from Parkhall GP Surgery geographically with 1.8 miles travelling distance. Paragraph 7.39 of the Local Plan notes that the distances should be considered a guide rather than a fixed limit and that account will also be taken of qualitative aspects, and in particular the nature of the route to the nearest primary school, including the presence or lack of pavements and/or cycle paths.
- 7.41 The route from the site to Somersham is unlit and without pavements and cycle paths with a road speed limit of 60mph heading towards Somersham. The route is not suitable for children to travel to school by walking or cycling. Given that it is not a significant travelling distance, adults may take up the option to cycle to the village. Paragraph 25 of the PPTS states that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

- 7.42 Although part of the open countryside, it is considered that the site is reasonably close to Somersham and should not be considered as away from it. The distances to the nearest Primary School and GP Surgery are acceptable and the necessary car journeys would be short in distance such that the harm which would arise from a reliance on motor vehicles would not be significant.
- 7.43 Overall, it is recognised that there is some conflict with part a of Policy LP27 given the poor quality of the route for pedestrians to access the village of Somersham. However, it is considered the location of the proposed development is broadly in accordance with the aims of the PPTS, and there would not be a significant level of harm associated with the required car journeys in this instance.

LP27.b) The character and appearance of the wider landscape would not be significantly harmed:

- 7.44 The site extends an existing gypsy and traveller site, as part of the previous approvals for those pitches landscaping has been agreed and planted to enclose the site along its boundaries. This landscaping has become established and now provides an effective screen, preventing views into both the existing and proposed site from Chatteris Road.
- 7.45 The Huntingdonshire Landscape and Townscape Supplementary Planning Document 2022 (HLTSPD) places the appeal site within the Fen Margin Character Area, with the key characteristics of the area being generally well vegetated with deciduous woodland, hedgerow trees and orchards with a matrix of land uses.
- 7.46 The HLTSPD sets out the Fen Margin is strongly influenced by the adjoining areas but also has a distinct character of its own comprising a mosaic of landscape types united by their flat topography, vegetation (particularly woodlands and treed hedgerows) and extensive skiescapes. The small size of the fields along with the hedges, trees and woodlands create a sense of enclosure to the landscape although this is partially offset by the expansive views of the sky. The HLTSPD states that development proposals should maintain existing hedgerow trees and woodlands and create soft edges to built developments which have a visual relationship with surrounding landscapes.
- 7.47 Any effect on the character and appearance of the countryside must be considered having regard to the existing lawful development on the adjoining site. The existing site has, given the period of time that it has been occupied as a Gypsy and Traveller pitch, assimilated into the wider landscape and is not unduly prominent within it. The landscaping that has been put in place has matured and now forms part of the rural character of the area.

- 7.48 The existing landscaping comprises a mix of native deciduous and non-native evergreen species and from within the site the native deciduous trees and hedging create a pleasant back drop to the development and soften the appearance of the site as a whole. This accords with Paragraph 26 of the PPTS which requires sites to be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness, and to promote opportunities for healthy lifestyles such as ensuring adequate landscaping.
- 7.49 Furthermore, as set out within the HLTSPD, trees and hedgerows are characteristic of this part of the Fen Margin and when viewed along Chatteris Road, the landscaping on the boundary of the appeal site is viewed in the context of similar landscaped boundaries around neighbouring properties and is not an uncommon feature in the wider landscape.
- 7.50 Whilst the proposed development would result in the expansion of the site and an introduction of a further pitches, it would not expand beyond the natural boundaries which have been established as part of the adjoining development and would be served by the existing access. Views into the site would be minimised, to ensure that any cumulative visual impact would be compatible with the rural character and appearance of the area. Accordingly, the introduction of the proposal into the site would not harm and would respect and conserve the character of this part of the countryside. The proposal would therefore be in accordance with policies LP10, LP11, LP12 and LP27.b) of the Local Plan.

LP27.c) The location and scale of sites does not dominate the nearest settled community, when the proposal is considered collectively with other nearby traveller sites

- 7.51 LP27, criterion c) is based on the national Planning Policy for Traveller Sites (2015) paragraphs 14 and 25. Paragraph 25 states that: "Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure." No definition is provided of what should be considered the 'nearest settled community'.
- 7.52 There is a residential dwelling to the south known as The Paddocks and a residential dwelling associated with Holwood Nursery to the north beyond the adjacent paddocks. It is not considered that these properties constitute a settled community in terms of the meaning of the PPTS and Local Plan. Approval of this application would increase the number of approved Gypsy and Traveller pitches at Legacy Park from 4 to 8 which accords with paragraph 7.41 of the Local Plan which states, "It is anticipated that new Gypsy and Traveller sites will be in the form of small family sized sites of up to four pitches although some larger sites that already exist, or new sites of up to eight pitches, may be

appropriate depending upon local circumstances.” Overall, it is considered that the proposal is acceptable against this criterion.

LP27.d) The proposed boundary treatment provides a good balance between minimising the development’s impact on surrounding countryside and its integration into the local community

- 7.53 The PPTS at paragraph 26 sets out that sites should not be enclosed with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 7.54 As part of the previous approvals for the wider site, landscaping has been agreed and planted to enclose the site along its boundaries. This landscaping has become established and now provides an effective screen, preventing views into both the existing and proposed site from Chatteris Road.
- 7.55 The site is therefore not enclosed with hard landscaping, walls or fences which the PPTS consider gives the impression of isolation.
- 7.56 There is clearly a balance to be struck between providing a level of privacy and security for the appeal site and to ensure that the site is integrated into the local community. In this instance the site is located along Chatteris Road, which comprises a number of individual properties and commercial uses and these all have a degree of screening, predominately in the form of landscaped boundaries.
- 7.57 Social cohesion is found through the linkages established between those occupying the site and the community provided within the nearest settlements of Somersham and Chatteris. Furthermore, the site itself also provides for social cohesion between the neighbouring pitches and those on the appeal site, with clear links and support provided by family members living across both sites. These linkages are just as important to prevent social isolation for the intended occupiers.
- 7.58 In conclusion, the existing boundary treatment provides a good balance between minimising the impact on the countryside and integration into the local community, in accordance with policy LP27b of the Local Plan and utilises soft landscaping to enhance the environment in accordance with paragraph 26 of the PPTS. This is in line with the recent appeal decision for the central element of the site.

LP27.e) There will not be a significant adverse effect on the amenity of nearby residents or the effective operation of adjoining uses

- 7.59 Vehicular access is proposed via the existing access for the pitches to the east. This access is approximately 50 metres away from the nearest residential property (outside Legacy Park) and it leads to a driveway within the site which would be low speed and is also well separated from the neighbouring property. In addition, the main body of the site is around 70 metres from the main used areas of the neighbouring property.
- 7.60 In terms of the impact of the development on existing occupiers of Legacy Park it is considered that the proposed site plan is suitable to accommodate further pitches and associated vehicle movements and parking while preventing any undue residential amenity impacts. As discussed above, conditions could be imposed as standard for this type of development to restrict the number of caravans on the site and to prevent commercial activities and commercial vehicles over 3.5 tonnes.
- 7.61 The impact of the development on the adjacent Dressage Centre is also discussed above and it is considered that the domestic activity associated with proposed development would not generate noise and disturbance to a degree which would have a significant detrimental impact on the operation of the Dressage Centre nor introduce activities likely to create unexpected events which cause alarm to horses and their handlers noting the scale and siting of the proposed pitches, and the environment nearby to the site including traffic noise on Chatteris Road, 4 existing and approved Gypsy and Traveller Pitches, and activities associated with Holwood Nursery. Overall, it is considered that the proposal accords with this criterion.

LP27.f) The site provides a high level of residential amenity for the proposed residents, for example in relation to protection from noise and provision of play facilities

- 7.62 The Council's Environmental Health Team were consulted on the application and provided no comments. The proposed block plan shows an acceptable amount of recreational space in addition to a gym/store. Given the location and proposed layout of the site, it is considered that the proposal would result in a high standard of residential amenity for future occupiers and is acceptable against this criterion.

LP27.g) The health and safety of occupants is not put at risk, including through unsafe access to sites, poor air quality, contamination or unacceptable flood risk

- 7.63 In terms of Highway safety, Cambridgeshire County Council Highways have stated the access is in place and has been agreed with the highway authority through various applications. However, upon visiting the site it was noted that the access is not constructed to Cambridgeshire County Councils specification. Conditions are therefore recommended to upgrade the access

construction to the required standards. Having regard to the consultee comments and subject to conditions, it is considered that the site can be safely accessed in accordance with Policy LP17 of the Local Plan.

- 7.64 The great channel of the Ouse Washes is approximately 3.25km from the appeal site and together with the Ouse Washes Barrier banks, the Ouse Washes protect the area from fluvial flooding from the Delph and New Bedford rivers. The Delph and New Bedford Rivers are artificial channels into which water from the Great Ouse is channelled at Earith. The site is protected from these potential sources of flooding because, if the river banks are at risk of being over topped, the Environment Agency opens the Earith Sluices to allow water into the Ouse Washes from the Great Ouse.
- 7.65 Sited within the Middle Level of the Fens, the site lies within Flood Zone 3a but the Environment Agency have confirmed that it is located outside of the extent of the Fenland Breach mapping and is therefore not considered to be at a risk of flooding in the event of a breach of the Ouse Washes flood defences. The main source of flood risk at this site is associated with watercourses under the jurisdiction of the Warboys, Somersham and Pidley Internal Drainage Board (IDB).
- 7.66 The Middle Level Commissioners, on behalf of the IDB, have set out in a consultation response on the central element (18/00840/FUL) of the site that there are a range of defences to minimise the risks of flooding and that these have been designed to give adequate protection between the 1 in 60 and 1 in 100 years events, inclusive of climate change.
- 7.67 However, the proposal would increase the number of caravans on the site and involve the erection of associated dayrooms, as such the proposed intensification of the number of residential caravans on the site would increase the number of households to be affected by any future flooding.
- 7.68 Local Plan Policy LP5 states a proposal will only be supported where all forms of flood risk, including breaches of flood defences or other defence failures have been addressed and with reference to the Cambridgeshire Flood and Water Supplementary Planning Document (SPD). This includes that the sequential approach and sequential test are applied and passed and if necessary the exception test is applied and passed. The majority of the site has been identified as being within Flood Zone 3a.
- 7.69 Whilst the applicants Flood Risk Assessment makes reference to the site being within Flood Zone 1 within the 2010 Strategic Flood Risk Assessment (SFRA), Officers are relying on the 2017 SFRA as its evidence base, rather than the 2010 SFRA which took into

account existing defences and concluded that the site was therefore in Flood Zone 1.

7.70 PPG Paragraph: 024 Reference ID: 7-024-20220825 Revision date: 25 08 2022:

“How can the Sequential Test be applied to the location of development?”

The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites:

- Within medium risk areas; and*
- Then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas.*

Initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain. Climate change will also impact upon the level of protection infrastructure will offer throughout the lifetime of development. The Sequential Test should then consider the spatial variation of risk within medium and then high flood risk areas to identify the lowest risk sites in these areas, ignoring the presence of flood risk management infrastructure.

It may then be appropriate to consider the role of flood risk management infrastructure in the variation of risk within high and medium flood risk areas. In doing so, information such as flood depth, velocity, hazard and speed-of-onset in the event of flood risk management infrastructure exceedance and/or failure, should be considered as appropriate. Information on the probability of flood defence failure is unsuitable for planning purposes given the substantial uncertainties involved in such long-term predictions.”

7.71 The 2017 SFRA follows the recommended approach in the Planning Practice Guidance (PPG) in relation to existing defences and is the most up to date in relation to flood risk.

7.72 The Framework and the PPG indicate that residential development should be directed to areas of lowest flood risk. Paragraph 168 of the Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and this is on the basis of a sequential, risk based approach to the location of development.

7.73 Paragraph 173 of the Framework sets out that when determining any planning application, development should only be approved in

areas at risk of flooding where it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk. In addition, the PPG requires the appellant to carry out a sequential test first, which steers new development to areas with the lowest risk of flooding from any source.

- 7.74 Given its location in Flood Zone 3a, irrespective of whether the Environment Agency or IDB consider the site to be at a low risk of flooding, it is necessary to carry out a sequential test, as set out in the LP policy, SPD and PPG. In particular the PPG confirms that the presence of existing flood risk management infrastructure should be ignored, as long term funding, maintenance and renewal of this infrastructure is uncertain. Climate change could also impact on the level of protection infrastructure will offer throughout the lifetime of the development.
- 7.75 The SPD sets out how a sequential test should be undertaken, including agreeing the geographical search for the sequential test, which is generally the entire Local Planning Authority area. There is no evidence that an Authority wide search for sites has been undertaken with the applicant's FRA merely concluding that the sequential test is met as the site is located in a defended Flood Zone 3. Furthermore, the FRA does not set out any other sites that have been considered and ruled out or whether there is any spatial variation of flood risk between other sites.
- 7.76 The applicant sets out a section on a sequential test in the FRA, however this is evidence on the lack of allocated sites for Gypsies and Travellers and the failure of the Council to have an up to date needs assessment. These are matters which fall to be considered later in the planning balance, but do not negate the need for a sequential test to be carried out in accordance with the LP policy and SPD.
- 7.77 Therefore, it has not been demonstrated that the sequential test has been passed as it has not been shown that sites at a lower risk of flooding are not reasonably available and the necessary steps of the sequential test have simply not been carried out or evidenced appropriately.
- 7.78 As defined within the PPG the use of a site for caravans, mobile homes and park homes intended for permanent residential use are classified as highly vulnerable. Therefore, the Framework does not require the Exception Test to be applied to sites within Flood Zone 3a.
- 7.79 However, if it were to apply it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk, and that it will be safe for the lifetime of the development. Both elements of the test will have to be passed for development to be permitted.

- 7.80 Paragraph 13 of the Planning Policy for Traveller Sites (PPTS) sets out that traveller sites should be sustainable economically, socially and environmentally and should not locate sites in areas of high risk of flooding, given the particular vulnerability of caravans. However, with regard to wider sustainability benefits, the proposal would provide limited economic and social benefits for the wider community through the spending of future occupiers in the local economy. In terms of environmental benefits, the proposal would provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment. However noting the scale of the proposal, the weight to be afforded is modest. The potential wider sustainability benefits to the community should carry no more than modest weight, and would not outweigh the significant risk to occupants of the site resulting from its location in a flood zone with a high probability of flooding.
- 7.81 The second limb of the exception test requires that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. The evidence provided sets out the investments that have been made on flood defences within the locality and how this will ensure that the development will be safe for its lifetime. Also, that due to the drainage of the site it will not increase flood risk elsewhere.
- 7.82 The PPG sets out that proposals that are likely to increase the number of people living in an area of flood risk require careful consideration, as they could increase the scale of any evacuation required and that even low levels of flooding can pose a risk to people in situ because of, for example, the presence of unseen hazards and contaminants in floodwater, or the risk that people remaining may require medical attention.
- 7.83 It also sets out that access routes should allow occupants to safely access and exit their dwellings in flood conditions and that vehicular access to allow the emergency services to safely reach the development will all be required. Wherever possible, safe access routes should be provided that are located above design flood levels and which avoid flow paths.
- 7.84 However, the access to the site is also within Flood Zone 3 and therefore would be impassable during a flood event, whilst the access to the site has already been established and therefore previously deemed suitable for the development, this was based on four households and not for the increased occupation associated with the proposed development.
- 7.85 It has not therefore been demonstrated that the development would be safe throughout its lifetime and it is concluded that this element of the exception test has not been satisfied.

- 7.86 It is considered that the development significantly harms the living conditions of future occupiers due to the risk of flooding and so undermines wider consideration of public safety contrary to the relevant requirements of policy LP5 of the Local Plan, and the guidance within the SPD. Subsequently, the proposal conflicts with Policy LP27.g) of the Local Plan as the health and safety of occupants is put at risk through unacceptable flood risk.

LP27.h) There is adequate space for operational needs, including the parking and turning of vehicles

- 7.87 It is considered that the proposed plans demonstrate there is adequate space for vehicles to park, and enter and leave the site in a forward gear and therefore the proposal is acceptable against this criterion.

LP27.i) There are appropriate management arrangements in place, where the site may have multiple owners or tenants or be used for transit purposes

- 7.88 It is understood that the site would continue to be owned by the applicant and that the proposed occupiers are relatives. Therefore, given the scale of the proposal, it is considered that the site would be appropriately managed by the applicant. The shared facilities requiring management are the access drive and the sewage treatment plant and this can be secured by condition. In regard to the 2 proposed transient pitches, conditions are recommended to ensure this is managed.

LP27.j) The site can be safely and adequately serviced by infrastructure

- 7.89 The site can be safely and adequately serviced by infrastructure – The applicant has not submitted information in this regard. However, it is noted from the Officer report for the approved application 1401501FUL that apart from gas and foul drainage, main services are available to Legacy Park. It is considered that the site can be appropriately serviced by infrastructure and therefore the proposal is acceptable against this criterion.

Biodiversity

- 7.90 Policy LP30 of the Local Plan states that a proposal will be required to demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated. A proposal that is likely to have an impact, either direct or indirect, on biodiversity or geodiversity will need to be accompanied by an appropriate appraisal, such as a Preliminary Ecological Appraisal, identifying all individual and cumulative potential impacts on biodiversity and geodiversity. A proposal will ensure no net loss in biodiversity and provide a net gain where possible, through the planned retention, enhancement and creation of habitats and

wildlife features, appropriate to the scale, type, and location of development.

7.91 The application is not accompanied by an ecological assessment. It is considered that there would be some degree of loss in biodiversity given the proposal would replace part of a grassed paddock with hardstanding, caravans and dayrooms. However, it is considered that the level of biodiversity loss in this instance would be relatively minor, and it is noted that although separate to this application, extensive planting around the paddock and Traveller sites carried out by the applicant would have contributed positively to biodiversity. In this case it is considered that the low level of biodiversity loss could be satisfactorily mitigated by ecological enhancements which could be secured by condition.

7.92 Therefore, subject to a condition for ecological enhancements, it is considered that in this case the proposal would not lead to a net loss in biodiversity in accordance with Policy LP30 of the Local Plan.

Developer Contributions

Bins

7.93 Part H of the Developer Contributions SPD (2011) requires a payment towards refuse bins for new residential development. However, the agent has confirmed that the site has a private waste collection which serves the site. This will be controlled through the site development scheme condition.

Other Matters

Intentional unauthorised development

7.94 The establishment of additional pitches on the site, without planning permission amounts to intentional unauthorised development, as such the 2015 ministerial statement is relevant. By way of mitigation, the appellant's relatives have had limited options in respect of accommodation and the appellant has sought to regularise the situation through a planning application. Nonetheless, the works undertaken have gone beyond what is necessary to establish a temporary home pending the outcome of the application.

Conclusion

7.95 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

7.96 Officers must therefore weigh up the material considerations.

- 7.97 It is considered that the applicants meet the 2023 PPTS definition of Gypsies and Travellers.
- 7.98 Article 1 of the First Protocol sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life and his home. Refusing the application would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.
- 7.99 The future occupants of the proposed pitches are an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. The proposal would meet the needs of those persons with a relevant protected characteristic, by reason of race, and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty is applicable.
- 7.100 Until the updated GTAA is produced, the Council is unable to provide any evidence on the extent of the unmet need, whilst noting that it is likely that there will be additional need for those who were excluded from the GTAA process based on the previous PPTS definition. It is also considered there is a lack of alternative sites for the applicants. Significant weight is therefore afforded to this consideration.
- 7.101 Significant weight is also afforded to the personal circumstances, which includes children, of the applicants.
- 7.102 The provision of 2 transient pitches would also contribute towards the unmet need and would help mitigate against potential illegal encampments. Moderate weight is afforded to this.
- 7.103 The provision of a children's play area (which will be secured through a condition) is a benefit of the scheme and therefore afforded modest weight.
- 7.104 The establishment of additional pitches on the site, without planning permission amounts to intentional unauthorised development. This adds modest additional weight as a material consideration against the proposal.
- 7.105 Considerable weight is afforded to the risk to the intended occupiers from flooding as described. In the overall planning balance, the benefits of the proposal, including that the development would provide a settled base for four households, are not sufficient in this case to outweigh the harm arising from the risks from flooding.

- 7.106 It must therefore be considered whether a temporary planning permission may be acceptable. This must take in to account the limited duration of any permission and any reasonable expectation of a change in planning circumstances by the end of that period.
- 7.107 As outlined, there will be difficulty with finding alternative authorised accommodation and there will be significant benefits for the intended occupiers to have a safe place to reside given that there are children on the site.
- 7.108 The Inspector concluded on the central part of the site that:

“71. Whilst the risks arising from flooding would remain, in this case the Environment Agency have confirmed that the risk is low. In granting a temporary permission any risk would be incurred for a strictly limited period of time and allow for further consideration of a sequential test to determine if the site is suitable for permanent occupation.

72. Furthermore, the Council is in the process of updating its GTAA in order to inform a new Local Plan, which will identify future sites and the council have advised that this could be adopted in 2027. They have set out that preferred options for sites are likely to be identified by 2025 and that there is a reasonable prospect of identifying sites at a lower risk of flooding. Therefore, there is a possibility of legitimate alternative sites becoming available through that process, from around the time of its adoption.

73. A temporary permission would allow time for the appellant’s and the Council to work together to find a long term solution, and on this basis I consider that a five year temporary permission would be reasonable in this instance and based on the facts of the case before me.”

- 7.109 Whilst the personal circumstances of the occupiers may differ, the weight afforded to them is significant. It would therefore be unreasonable for Officers to come to a different conclusion that a temporary permission for a period of five years is acceptable.
- 7.110 Therefore, the material considerations would clearly outweigh the temporary harm arising from a limited period of occupation in order to justify the grant of a temporary permission personal to the intended occupiers. A temporary permission would be a proportionate response that balances the qualified Article 8 Human Rights of the intended occupiers for respect of private and family life, and also a home with the material considerations outlined in this report.

8. RECOMMENDATION - APPROVAL subject to the following conditions:

- Temporary personal permission and occupancy
- Cease of occupation
- Approved plans
- Maximum number of pitches/caravans
- Site development scheme
- Transient pitches management
- No commercial activities
- Access works
- Childrens play area

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388388 and we will try to accommodate your needs.

CONTACT OFFICER:

Enquiries about this report to **Lewis Tomlinson Senior Development Management Officer** – lewis.tomlinson@huntingdonshire.gov.uk

From: [DevelopmentControl](#)
To: [DevelopmentControl](#)
Subject: Comments for Planning Application 23/02358/FUL
Date: 13 February 2024 12:16:45

Comments summary

Dear Sir/Madam,

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 13/02/2024 12:16 PM from [REDACTED]

Application Summary

Address:	Legacy Park Chatteris Road Somersham
Proposal:	Use of Land for Gypsy and Traveller Residential Use creating 7 pitches comprising the siting of 1 mobile home, 1 touring caravan, a Day Room and associated parking and a new Children's Play Area.
Case Officer:	Lewis Tomlinson

[Click for further information](#)

Customer Details

Name:	[REDACTED]
Email:	[REDACTED]
Address:	[REDACTED]

Comments Details

Commenter Type:	Town or Parish Council
Stance:	Customer objects to the Planning Application

Reasons for comment:

Comments: Further to the meeting held on the 12th February 2024, councillors recommend refusal of this application on the following grounds;

- * Over development of the site
- * There is insufficient infrastructure on the proposed site to support a holiday park for amenities, such as drainage.
- * The council are concerned approval of this application will increase the negative effects relating to biodiversity including the disturbance of protected species.
- * There is already an established, registered holiday Caravan and Motorhome site within the village.

Finally, as per the experience of previous applications for the site, the council are concerned approval of this application provides little certainty any conditions set will be adhered to.

Kind regards

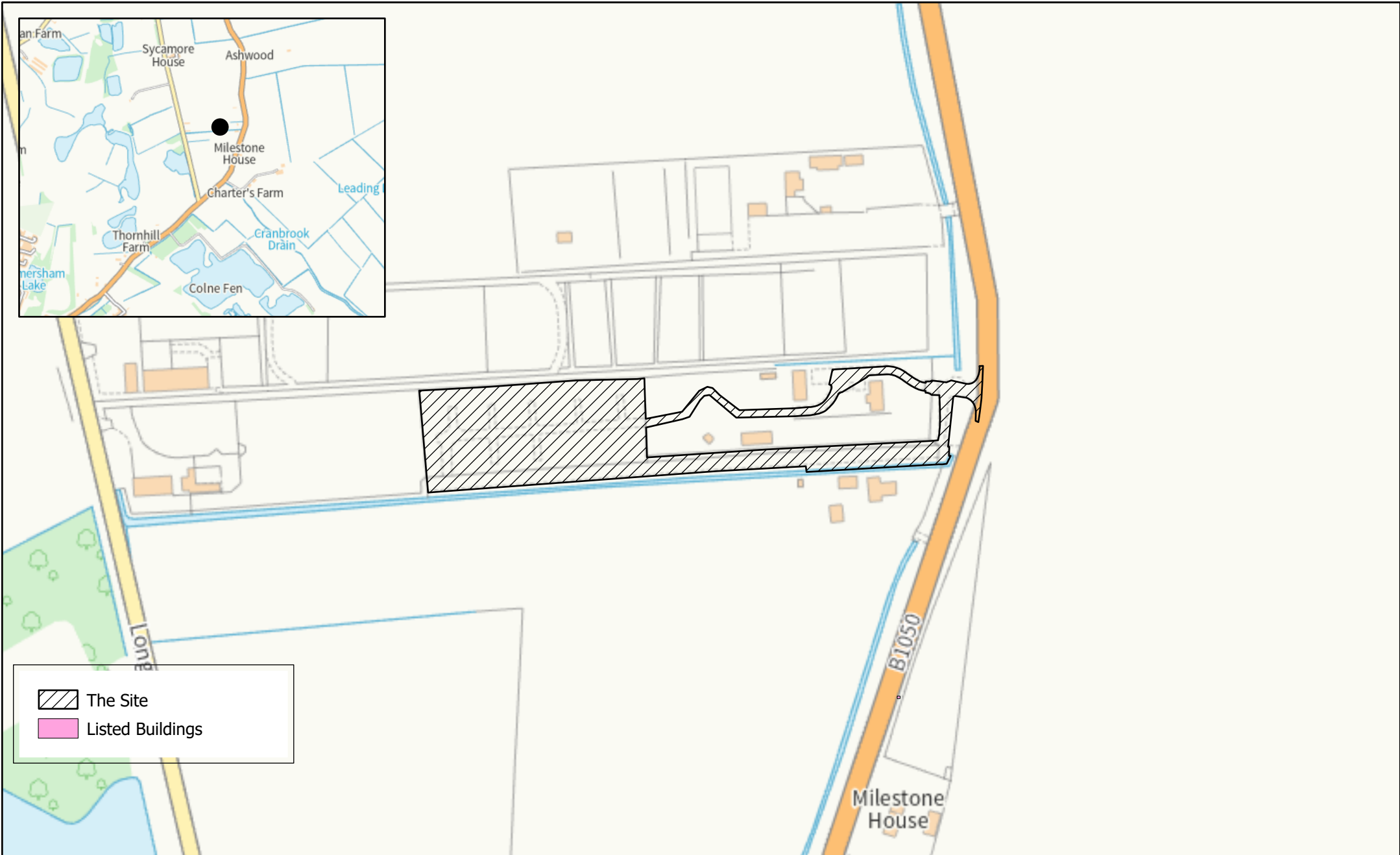
Development Management Committee

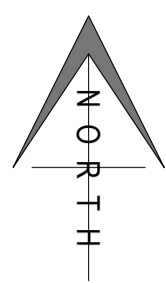
Application Ref: 23/02358/FUL



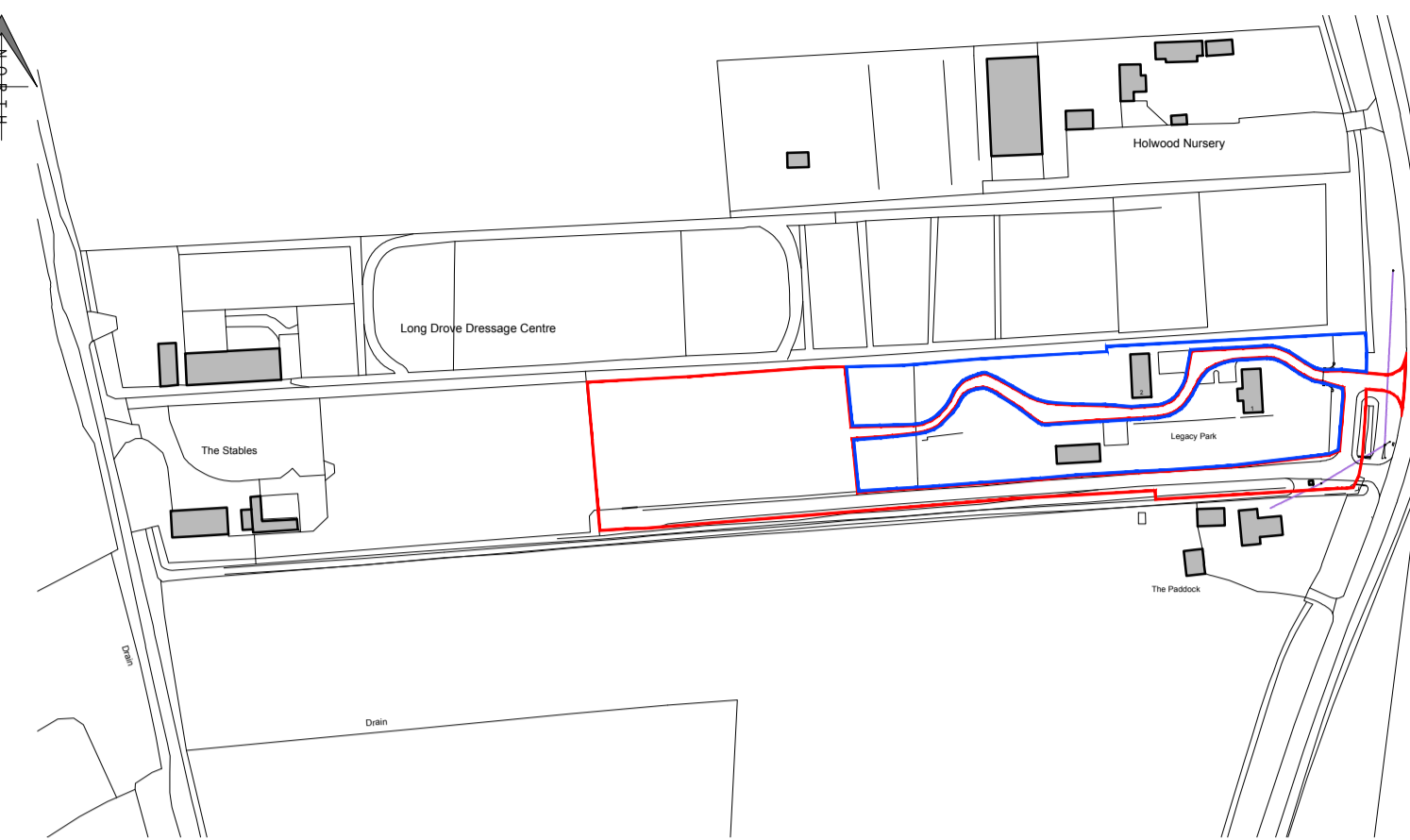
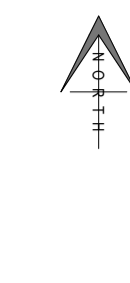
Scale = 1:2,500

Date Created: 03/07/2024










Site Plan - As Existing
scale - 1:250

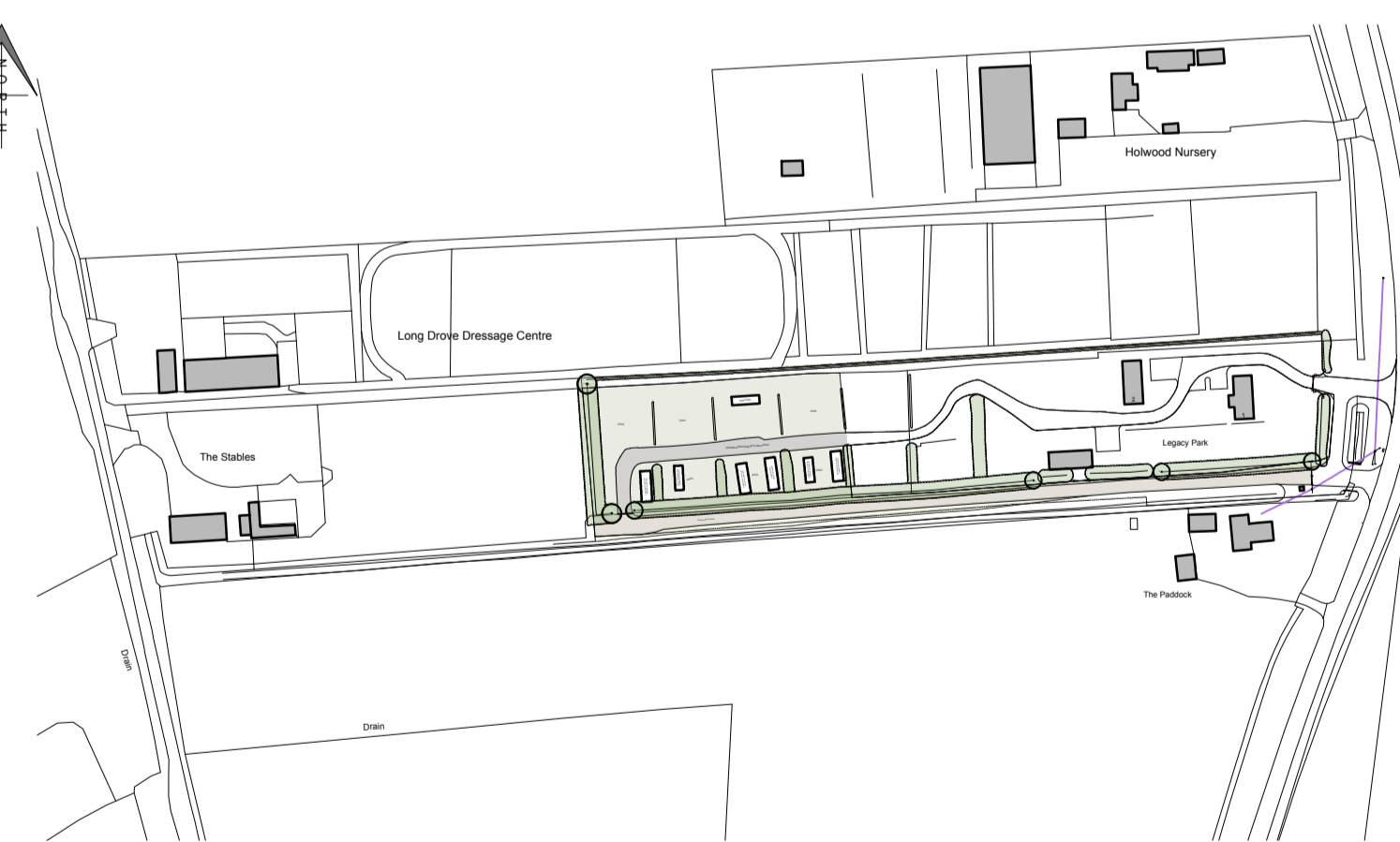
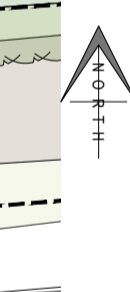


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Location Plan
scale - 1:2500

Key

-  Permeable surface.
-  Existing access to be retained.
-  Grass.
-  Existing tree - indicative size and location.
-  Existing hedge - indicative size and location.



Block Plan
scale - 1:2500

PROJECT :
Proposed Change of Use at Legacy Park, Chatteris Road, Somersham
for Mr F Adams

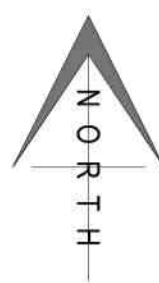
DRAWING TITLE :
PLANNING SUBMISSION
Existing Site Plan and Location Plan

DATE :
Oct 23








SCALE :
Var @ A1

SHEET :
PC-162-P100

REV :
-



Key

-  Permeable surface.
-  Existing access to be retained.
-  Grass.
-  Existing tree - indicative size and location.
-  Existing hedge - indicative size and location.
-  Clangester Tank - indicative size and location.
-  Refuse Skip - collected and replaced from site to suit demand.



Site Plan - Indicative Proposed Layout
0 2 4 6 8 10 12.5m
scale - 1:250

PROJECT :
Proposed Change of Use at Legacy Park, Chatteris Road, Somersham
for Mr F Adams

DRAWING TITLE :
PLANNING SUBMISSION
Indicative Proposed Site Layout

DATE :
Oct 23

SCALE :
Var @ A1

SHEET :
PC-162-P101

REV :
A

